

MINUTES OF THE  
IDAHO STATE BOARD OF PHARMACY

AUGUST 20, 2004

AMERITEL INN  
BOISE, IDAHO

Chairman Frank Casabonne R.Ph. called the meeting to order at 9:00 A.M. Also in attendance were board members Kitty Gurnsey; Mike Merrill R.Ph.; Marilyn Silcock Pharm D. and Dwayne Sheffler R.Ph. Also present were Richard Markuson, Executive Director; Fred Collings, Senior Investigator; Jan Atkinson, Senior Compliance Officer; Kent Nelson, Deputy Attorney General and Cheri Bush, Deputy Attorney General.

Kitty Gurnsey made a motion to approve the minutes from the June 10, 2004 board meeting as written. Mike Merrill seconded the motion. Motion unanimously carried.

Regarding citation #1366 issued to Big Sky Animal Health: Kitty Gurnsey made a motion to fine then \$50.00 and place a letter of reprimand in their file. Mike Merrill seconded the motion. Motion unanimously carried.

Regarding the pending board action against Mark Sulik for non-payment of his disciplinary fine, Mike Love, representing Rite Aid, indicated that payment arrangements had been made between Mr. Sulik and Rite Aid and it was Mr. Love that didn't follow through with the payment to the Board. Mike Merrill made a motion that no further action on the part of the board would be necessary considering the circumstances. Marilyn Silcock seconded the motion. Motion unanimously carried.

Mr. Markuson discussed information he received concerning medication errors and alternative action that is available to individuals and/or companies in lieu of punitive action. The board reviewed the information but was concerned about the tremendous costs in money and time of these programs and felt that the current discipline by this board was appropriate for these matters.

Regarding citation #1199 issued to Mike Merrill: Kitty Gurnsey made a motion for \$100.00 fine and a letter of reprimand to be placed in his file. Dwayne Sheffler seconded the motion. Marilyn Silcock abstained from the vote. Motion carried.

Regarding citation #1364 issued to Cassandra Goddard: Mike Merrill motioned to fine her \$100.00 and place a letter of reprimand in her file. Marilyn Silcock seconded the motion. Motion unanimously carried.

Regarding citation #1363 issued to Allison Clark: Mike Merrill made a motion to fine her \$100.00 and place a letter of reprimand in her file. Dwayne Sheffler seconded the motion. Motion unanimously carried.

Regarding citation #1365 issued to Lisa Nicholls: Dwayne Sheffler made a motion to fine her \$250.00 and place a letter of reprimand in her file. Kitty Gurnsey seconded the motion. Mike Merrill made a substitute motion to fine Ms. Nicholls \$500.00 due to the serious nature of the citation for practicing pharmacy without a license. The motion died from lack of a second. The original motion unanimously passed.

Regarding the matter of Mike Roberts and his request for reinstatement of his pharmacist license: Marilyn Silcock made a motion to reinstate his license with probationary status for five years, including random UAs five times a month for the first two years and UAs three times a month for the remaining three years, documentation of required CE, continue with current counseling program, proof of all requirements submitted to the board, recovery of costs and fine payment of \$2,000.00 within two years of reinstatement. Mr. Roberts is currently in drug court therefore this order should run concurrently through his graduation in January 2005. Motion seconded by Mike Merrill. Motion unanimously carried.

Regarding the matter of Tad Hancock DDS and request for reinstatement of his controlled substance registration: Mike Merrill motioned to reinstate his controlled substance registration provided he continue with the PRN program and signs a medical release for information in order for this board to monitor his full compliance with his existing PRN contract, including UAs and evaluations. In addition, he is not to have any controlled substance samples in his office. Following completion of the PRN contract, he will be on probation for another five years from the date of reinstatement of his controlled substance registration. Kitty Gurnsey seconded the motion. Motion unanimously carried.

Regarding the matter of Kerry Steele PA and request for reinstatement of his controlled substance registration: Mike Merrill made a motion to reinstate his controlled substance registration provided he continue with the PRN program and sign a medical release for information in order for this board to monitor his full compliance with his existing PRN contract, including UAs and evaluations. In addition, he may not store any controlled substance samples in his office. He may not administer or dispense controlled substances but is allowed to write prescriptions. Following completion of the PRN contract, he will be on probation for another five years from the date of reinstatement of his controlled substance registration. The order should also be amended with costs incurred by board staff. Marilyn Silcock seconded the motion. Motion unanimously carried.

Regarding the proposed stipulation for Jason Jungert: Marilyn Silcock made a motion to accept the stipulation as written with fines to be included prior to signing. Kitty Gurnsey seconded the motion. Motion unanimously carried.

Regarding the pending board action against Roger Wood for failure to pay his disciplinary fine: Dwayne Sheffler made a motion to allow Mr. Wood to remain practicing and make partial payments of \$100.00 per month, with full payment of fine to be completed within 12 months. In

addition, Mr. Wood must submit 2 years of required CE documentation to the board by September 1, 2004. Kitty Gurnsey seconded the motion. Motion unanimously carried.

#### Lunch Break.

After reviewing the request by Dilbert Miles DVM for changes to the current requirements for practitioners in labeling legend drugs, the board members requested board staff to investigate the matter further. Existing concerns requiring further investigation included: the manner in which the orders are received and processed; labeling issues, some of which were discussed above; orders made pursuant to an active patient/client relationship and discussions with the Board of Veterinary Medicine regarding the methods of distributing legend veterinary products without using a pharmacy or practitioner to correctly label that product.

After discussing a request from Neil Stoddard R.Ph. and Carl Gilbertson, representing Auto Med, for the board to review a telepharmacy program, the board directed Mr. Stoddard to draft a proposal outlining the specifics of how they plan to operate their proposed telepharmacy program in Terreton.

Rep. Robert Ring from District 10 in Canyon County and with the support of Dr. Robert Parson requested an extension to the length of time a legend prescription could remain valid from 12 months to either 15 months or 18 months. The two reasons for the extension request were the time burden that practitioners spend authorizing expired prescriptions and the insurance companies that refuse to pay for an annual exam until after the date following their last annual exam. Marilyn Silcock made a motion to extend the length of time a legend prescription remains valid from the current requirement of 12 months to 15 months. Kitty Gurnsey seconded the motion. Motion unanimously carried. Dr Ring thanked the board members and stated he would also support the Board in a rule change requiring only one prescription per blank.

During legislation and rule review, the board directed Mr. Markuson to support Superior Care of Idaho in their dispute with Medicaid over the definition of a prescription vs. a drug order and the ability of a limited service pharmacy to use drug orders instead of prescriptions. After reconsideration of the proposed rules for Unprofessional Conduct, the board members moved to strike proposed rules 142.02 and 184.16. Mike Merrill made a motion to accept the changes to the proposed rules on Unprofessional Conduct and send them to print with the corrections. Marilyn Silcock seconded the motion. Motion unanimously carried. Proposed legislation to place both tramadol and carisoprodol in Schedule IV will proceed as planned. The temporary rule increasing the technician to pharmacist ratio to 3:1 will also be made into a permanent rule. Marilyn Silcock also made a motion to instruct counsel to draft legislation for temporary licensure of a pharmacist for the next legislative session. Mike Merrill seconded the motion. Motion unanimously carried.

The board members instructed Mr. Markuson to present the MPJE issue and necessary information on where and when it is available and the associated costs for presentation at the next board meeting.

Mr. Markuson addressed the board members on current budget information and budget issues for the upcoming year.

During future meetings, the next board meeting was scheduled for Dec. 3, 2004 in Boise.

Mike Merrill made a motion to adjourn the meeting if all Board of Pharmacy business had been concluded. Dwayne Sheffler seconded the motion.

Meeting adjourned.

Minutes respectfully submitted by Jan Atkinson.

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Chairman

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Vice-Chairman

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Member

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Member

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Executive Director